

TO: ASSESSING OFFICERS
FROM: STATE TAX COMMISSION

NO. 4, April 12, 1988
DISTRIBUTION -
TAX COLLECTIONS

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

TAXATION: Computation of time for local
treasurers to remit collected
taxes to school districts

Interest earned on collected
school taxes property of school
district

WORDS AND PHRASES: "Business day"

The ten business day period for remittance by local treasurers of school taxes collected to the respective school districts required by MCL 211.43; MSA 7.84, is computed by counting each day after the statutory date, including Mondays through Saturdays, but excluding holidays, except that if the tenth day falls on a Saturday, the time for payment is extended to the next day which is neither a Sunday nor a holiday.

Interest earned on school taxes while in the possession of the local treasurer belongs to the school district and must be remitted to the school district.

Opinion No. 6489

JAN 20 1988

Honorable Norman D. Shinkle
State Senator
The Capitol
Lansing, Michigan 48909

You have requested my opinion on two questions concerning the collection of school taxes and remittance by the local treasurers to the respective school districts. Your first question relates to the timing of the payment of the property taxes collected to local and intermediate school districts by city, township and county treasurers and what is

meant by the term "business days" as it is used in § 43 of the General Property Tax Act, MCL 211.43; MSA 7.84. Your second question concerns the legality of a local unit of government investing the school district taxes collected by it and retaining the interest earned thereon when the local unit of government already charges a 1% administration fee.

The procedure to be followed by the treasurers of local units of government in regard to the timing of the disbursement of property tax receipts is spelled out in MCL 211.43; MSA 7.84, which provides in pertinent part:

"(3) Except as provided in subsection (4) and (5), tax collections shall be delivered pursuant to the following schedule:

"(a) Within 10 business days after the first and fifteenth day of each month, the township or city treasurer shall account for and deliver to the county treasurer the total amount of state and county tax collections on hand on the first and fifteenth day of each month; to the school district treasurers the total amount of school tax collections on hand on the first and fifteenth day of each month; If the intermediate school district and the community college district provide for direct payment pursuant to subsection (9), the township or city treasurer shall also account for and deliver to the intermediate school district and community college district the total respective amounts of school tax collections on hand the first and fifteenth day of each month. This subdivision shall not apply to the month of March.

"(b) Within 10 business days after the last day of February, the township or city treasurer shall account for and deliver ... to the school district treasurers at least

90% of the total amount of school tax collections on hand on the last day of February; If the intermediate school district and community college district provide for direct payment pursuant to subsection (9), the township or city treasurer shall also account for and deliver to the intermediate school district and community college district at least 90% of the total respective amounts of school tax collections on hand on the last day of February. [Emphasis added.]

The term "business days" or "business day" is not defined in MCL 211.43; MSA 7.84, nor is a definition contained in the General Property Tax Act. Definitions of the term "business day" are found in MCL 445.111; MSA 19.416(201), the home solicitation sales act, and MCL 559.103(5); MSA 26.50(103)(5), the Condominium Act. In both of these statutes, "business day" means Monday through Friday, excluding legal holidays.

Contrary to the above is MCL 435.101; MSA 18.861, which provides for certain days to be observed as holidays for banking and municipal services. While MCL 435.101; MSA 18.861, provides that certain legal holidays and Sundays are considered public holidays, it indicates that Saturdays are half holidays. MCL 435.101; MSA 18.861, goes on to say that "every Saturday unless a whole holiday, shall for the holding of court and the transaction of business authorized by the laws of this state be considered a secular or business day."

From the above, it is clear that in regard to the payment of property tax receipts from local units of government to local and intermediate school districts, "business days" are Monday through Saturday, with the exclusion of any legal holidays that fall between. Thus, for example, in February, 1987, a treasurer of a local unit of government would have 10 business days from February 15, 1987 in which to remit the local and intermediate school taxes collected. Ten "business days" from February 15, 1987 would have been February 27, 1987 because Monday, February 16, 1987 is a legal holiday.

It must also be noted that MCL 435.101; MSA 18.861, provides in pertinent part:

"The legislative body of a county or city may, by ordinance or resolution, provide for the closing of county or municipal offices for any or for all purposes on every Saturday."

Read harmoniously with the previously quoted passage of MCL 435.101; MSA 18.861, it becomes apparent that while municipal offices may be closed on a Saturday, for the purposes of MCL 211.43; MSA 7.84, such day must still be considered a "business day."

If the last "business day" is a Saturday, and the local treasurer's office is closed, MCL 8.6; MSA 2.217, is applicable and provides in pertinent part:

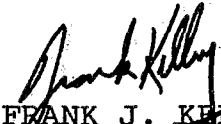
"If the last day of any period or a fixed or final day is on Saturday, Sunday or legal holiday, the period or day is extended to include the next day which is not a Saturday, Sunday or legal holiday."

It is my opinion, in answer to your first question, that the ten business day period for remittance by local treasurers of school taxes collected to the respective school districts required by MCL 211.43; MSA 7.84, is computed by counting each day after the statutory date, including Mondays through Saturdays, but excluding holidays, except that if the tenth day falls on a Saturday, the time for payment is extended to the next day which is neither a Sunday nor a holiday.

Turning to your second question involving the legality of the retention of interest earned on school taxes invested by the collecting local unit of government before remittance to the school district, a similar question has recently been addressed by the Michigan Court of Appeals. In Grand Rapids Public Schools v City of Grand Rapids, 146 Mich App 652; 381 NW2d 783 (1985), the court ruled that any interest earned on school tax collections while in the possession of the local treasurer belongs to the school district and not the collecting municipality.

It is my opinion, in answer to your second question, that any interest earned on school tax collections while in

possession of the local treasurer is the property of that school district and must be remitted to the school district.


FRANK J. KELLEY
Attorney General